

## DEPARTMENT OF STATE REVENUE

01-20200362.MOD

**Memorandum of Decision: 01-20200362  
Individual Income Tax  
For the Year 2019**

**NOTICE:** IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

**HOLDING**

The Department agreed that Individuals were entitled to claim a credit on their joint Indiana individual income tax return for local taxes paid in other states on schedule six, but they were not entitled to also claim the credit elsewhere on the return.

**ISSUE**

**I. Individual Income Tax - Credit for Local Taxes Paid in Another State.**

**Authority:** IC § 6-3.6-8-6(a); IC § 6-8.1-5-1(c); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayers argue that they are entitled to an additional refund of 2019 Indiana income tax because the Department erred in denying them a credit for local taxes paid in another state.

**STATEMENT OF FACTS**

Taxpayers are individuals who live in Indiana and who filed a joint 2019 individual income tax return. Taxpayers expected to receive a refund of approximately \$2,000. The Indiana Department of Revenue ("Department") reviewed the return and adjusted Taxpayers' Schedule 6 Offset Credits.

Taxpayers originally claimed offset credits of approximately \$3,200. That amount consisted of credit for approximately \$2,200 in "local taxes paid outside Indiana." The remainder of the credit was attributed to a \$1,000 contribution to the "IN CollegeChoice 529" education savings plan.

The Department disallowed the \$2,200 credit. Disallowing the \$2,200 credit resulted in a denial in the originally sought refund and - instead - an assessment of approximately \$200 in additional income tax.

Taxpayers objected to the Department's decision effectively denying their refund and assessing additional tax. Taxpayers submitted a protest to that effect arguing that they were entitled to the \$2,200 credit for local taxes paid in other states. An administrative hearing was conducted by telephone during which Taxpayers explained the basis for their protest. This Memorandum of Decision results.

**I. Individual Income Tax - Credit for Local Taxes Paid in Another State.**

**DISCUSSION**

The issue is whether Taxpayers have established that they were entitled to claim the original \$2,200 credit for local taxes paid to other states.

Because the Department's adjustments resulted in assessment of additional tax, it is Taxpayers' obligation to establish that the assessment was "wrong." All tax assessments are prima facie evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting their challenge that the Department's assessment is wrong.

Indiana law permits Indiana taxpayers to claim a "credit" for local taxes paid in another state. When a resident-taxpayer of an Indiana county is required to pay local income tax to a county of another state, the Indiana resident-taxpayer is entitled to a tax credit. IC § 6-3.6-8-6(a) in part, provides:

[I]f for a particular taxable year a local taxpayer is liable for an income tax imposed by a county, city, town, or other local governmental entity located outside Indiana, that local taxpayer is entitled to a credit against the tax liability imposed under this article for that same taxable year. The amount of the credit equals the amount of tax imposed by the other governmental entity on income derived from sources outside Indiana and subject to the tax imposed under this article.

Taxpayers - husband and wife - submitted two W-2 "Wage and Tax Statements." Husband's W-2 was issued by his Ohio employer. It designated approximately \$180 in "local income tax" on line 19 and approximately \$1,100 in "local income tax" on another line 19 box.

Wife's W-2 was issued by her Kentucky employer. It listed \$760 in "local income tax" on line 19.

At first glance, Taxpayers made a math error totaling the amount of local income taxes paid in Ohio and Kentucky. The amounts listed on the W-2s do not correspond to the \$2,200 claimed on schedule 6. The \$2,200 is greater than the total local income taxes listed on the W-2s.

In addition, the Department notes that wife claimed the \$760 on Schedule 5 ("Credits"). Having done so, the Department finds no reason that the credit can be claimed a second time on Schedule 6. The Department was correct in reducing the Schedule 6 credit by the \$760.

In addition, the Department notes that husband claimed the \$180 credit on Schedule 5. Again, the Department finds no reason that this credit can be again claimed on the Schedule 6. The Department was correct in reducing the Schedule 6 credit by the \$180.

However, Taxpayers are entitled to claim the \$1,100 credit on Schedule 6 for local taxes paid in another state. This tax credit for income tax paid to a county of another state (claimed on the Schedule 6) is not a refundable credit. This tax credit - to the extent of "[t]he amount of county tax due on the Indiana return" - is against their Indiana county income tax owed. That is, if the amount of income tax the resident-taxpayer paid to a county of another state exceeds the county income tax he or she would have owed under his or her Indiana return, the resident-taxpayer owes no Indiana county income tax. The resident-taxpayer receives no refund from Indiana on that local tax even when he or she has paid more tax to the county of another state.

With these corrections in mind, the Department is requested to review the return and to make whatever adjustments are warranted.

#### **FINDING**

Taxpayers' protest is sustained subject to the Department's review.

November 4, 2020

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